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Community Broadcasters Association

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March 13, 2000

Magalie Roman Salas, Secretary
Federal Communications Commission
Washington, DC 20554

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OFFICE OF THE SECRETARY

**Re: Report of Oral *Ex Parte* Presentations
by the Community Broadcasters Association
in MM Docket Nos. 99-292 and 00-10**

Dear Ms. Salas:

This is to report that oral *ex parte* presentations relating to MM Docket Nos. 92-292 and 00-10 were made on **March 7, 2000**, by Edward L. Owen, President, and Michael J. Sullivan, Executive Director, of the **Community Broadcasters Association** ("CBA") to the following Commission personnel:

Thomas C. Power, Office of the **Chairman**
Susan Fox, Office of the **Chairman**
David Goodfriend, Office of Commissioner Ness
Marsha MacBride, Office of Commissioner **Powell**
Helgi Walker, Office of Commissioner **Furtchgott-Roth**
Rick Chessen, Office of Commissioner **Tristani**
Roy J. Stewart, **Chief, Mass Media Bureau**
Keith Larson, **Mass Media Bureau**
Robert Ratcliffe, **Mass Media Bureau**
Kim Matthews, **Mass Media Bureau**

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In addition to a general review of points discussed in CBA's written comments in this proceeding, the discussion focused on these points, which CBA argued are mandated by the Community Broadcasters Protection Act of 1999: (1) There must be some kind of opportunity, however it may be structured, for low power television stations that did not qualify by November 29, 1999, to qualify for Class A status in the future. (2) Class A stations must take priority over pending applications for new analog stations. (3) There is only one opportunity, ending May 1, 2000, for full power digital TV stations to file maximization applications. (4) Granting priority over Class A stations to full power analog or digital stations migrating from Channels 60-69 to

Magalie Roman Salas, Secretary
March 13, 2000
Page 2

lower channels and full power digital stations seeking to change to a channel other than their analog channel would be inconsistent with the statute.

FCC personnel were given copies of documents demonstrating that the National Association of Broadcasters ("NAB") was aware during the legislative process that Congress intended Class A stations to take precedence over pending applications for new full power stations and argued unsuccessfully to change Congress' mind. These documents included:

(a) an NAB Issue Paper dated August 1999, which stated: "While H.R. 486 does protect full-power stations as they make their transition to digital, it does not protect the rights of those who have applied for full-power analog stations and have been waiting years for FCC action on their applications. These applicants should not be bumped by LPTVs that gain primary status later on."

(b) an NAB "Talking Points" paper dated June 3, 1999, which stated: "The bill would give LPTV stations priority over new full-power network affiliated and independent broadcast television stations -- the very stations that bring their communities all the local news, weather, sports, entertainment, and public affairs programming."

(c) Excerpts from CBA's letter of April 15, 1999, to Chairman Billy Tauzin of the House Subcommittee on Telecommunications, focusing the attention of the Subcommittee on the issue of pending full power analog applications. This material was appended to CBA's Reply Comments in this proceeding, filed February 22, 2000.

(d) Excerpts from the comments of NAB and Maximum Service Television in this proceeding, stating: "In establishing the Class A service, Congress could not possibly have intended to eliminate the rights of these applicants to have their long-pending applications processed in due course." CBA's point was that this comment was inconsistent with NAB's earlier position papers, as well as the legislative history established by CBA's letter to Chairman Tauzin.

Magalie Roman Salas, Secretary
March 13, 2000
Page 3

(e) House Commerce Committee and Conference Report excerpts indicating that protection for DTV maximization applications was intended to be limited to applications filed by May 1, 2000, including a change in Section (f)(1)(d) of the statute to delete the word "shall" from the provision: "provided, however, that applicants who file such notices of intent 'shall' file applications for maximization by May 1, 2000." The point was that the filing of a maximization application by May 1 was not intended to be mandatory to obtain maximization at all but rather was intended to be a prerequisite for protection from pre-existing stations that are awarded Class A licenses.

Respectfully submitted,

/s/ Michael J. Sullivan
Michael J. Sullivan
Executive Director

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**The FCC Acknowledges Receipt of Comments From ...
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 ...and Thank You for Your Comments**

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